

110TH CONGRESS  
2D SESSION

# H. R. 6218

To provide for loan guarantees for retrofitting high-performance green buildings.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 9, 2008

Mr. WEINER introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Science and Technology, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To provide for loan guarantees for retrofitting high-performance green buildings.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. HIGH-PERFORMANCE GREEN BUILDINGS RET-**  
4 **ROFIT LOAN GUARANTEES.**

5 (a) DEFINITIONS.—In this section:

6 (1) COST.—The term “cost” has the meaning  
7 given the term “cost of a loan guarantee” within the  
8 meaning of section 502(5)(C) of the Federal Credit  
9 Reform Act of 1990 (2 U.S.C. 661a(5)(C)).

1 (2) GUARANTEE.—

2 (A) IN GENERAL.—The term “guarantee”  
3 has the meaning given the term “loan guar-  
4 antee” in section 502 of the Federal Credit Re-  
5 form Act of 1990 (2 U.S.C. 661a).

6 (B) INCLUSION.—The term “guarantee”  
7 includes a loan guarantee commitment (as de-  
8 fined in section 502 of the Federal Credit Re-  
9 form Act of 1990 (2 U.S.C. 661a)).

10 (3) OBLIGATION.—The term “obligation”  
11 means the loan or other debt obligation that is guar-  
12 anteed under this section.

13 (4) SECRETARY.—The term “Secretary” means  
14 the Secretary of Energy.

15 (b) ELIGIBLE PURPOSES.—The Secretary shall make  
16 loan guarantees under this section for renovation projects  
17 that are eligible projects within the meaning of section  
18 1703 of the Energy Policy Act of 2005 and that will result  
19 in a building achieving the United States Green Building  
20 Council Leadership in Energy and Environmental Design  
21 “certified” level, or meeting a comparable standard ap-  
22 proved by the Secretary.

23 (c) TERMS AND CONDITIONS.—

24 (1) IN GENERAL.—The Secretary shall make  
25 guarantees under this section for projects on such

1 terms and conditions as the Secretary determines,  
2 after consultation with the Secretary of the Treas-  
3 ury, in accordance with this section, including limi-  
4 tations on the amount of any loan guarantee to en-  
5 sure distribution to a variety of borrowers.

6 (2) SPECIFIC APPROPRIATION OR CONTRIBU-  
7 TION.—No guarantee shall be made under this sec-  
8 tion unless—

9 (A) an appropriation for the cost has been  
10 made; or

11 (B) the Secretary has received from the  
12 borrower a payment in full for the cost of the  
13 obligation and deposited the payment into the  
14 Treasury.

15 (3) LIMITATION.—Not more than \$100,000,000  
16 in loans may be guaranteed under this section at  
17 any one time.

18 (4) AMOUNT.—Unless otherwise provided by  
19 law, a guarantee by the Secretary under this section  
20 shall not exceed an amount equal to 80 percent of  
21 the project cost that is the subject of the guarantee,  
22 as estimated at the time at which the guarantee is  
23 issued.

24 (5) REPAYMENT.—No guarantee shall be made  
25 under this section unless the Secretary determines

1 that there is reasonable prospect of repayment of the  
2 principal and interest on the obligation by the bor-  
3 rower.

4 (6) INTEREST RATE.—An obligation shall bear  
5 interest at a rate that does not exceed a level that  
6 the Secretary determines appropriate, taking into  
7 account the prevailing rate of interest in the private  
8 sector for similar loans and risks.

9 (7) TERM.—The term of an obligation shall re-  
10 quire full repayment over a period not to exceed the  
11 lesser of—

12 (A) 30 years; or

13 (B) 90 percent of the projected useful life  
14 of the building whose renovation is to be fi-  
15 nanced by the obligation (as determined by the  
16 Secretary).

17 (8) DEFAULTS.—

18 (A) PAYMENT BY SECRETARY.—

19 (i) IN GENERAL.—If a borrower de-  
20 faults on the obligation (as defined in reg-  
21 ulations promulgated by the Secretary and  
22 specified in the guarantee contract), the  
23 holder of the guarantee shall have the  
24 right to demand payment of the unpaid  
25 amount from the Secretary.

1           (ii) PAYMENT REQUIRED.—Within  
2           such period as may be specified in the  
3           guarantee or related agreements, the Sec-  
4           retary shall pay to the holder of the guar-  
5           antee the unpaid interest on, and unpaid  
6           principal of the obligation as to which the  
7           borrower has defaulted, unless the Sec-  
8           retary finds that there was no default by  
9           the borrower in the payment of interest or  
10          principal or that the default has been rem-  
11          edied.

12          (iii) FORBEARANCE.—Nothing in this  
13          paragraph precludes any forbearance by  
14          the holder of the obligation for the benefit  
15          of the borrower which may be agreed upon  
16          by the parties to the obligation and ap-  
17          proved by the Secretary.

18          (B) SUBROGATION.—

19          (i) IN GENERAL.—If the Secretary  
20          makes a payment under subparagraph (A),  
21          the Secretary shall be subrogated to the  
22          rights of the recipient of the payment as  
23          specified in the guarantee or related agree-  
24          ments including, where appropriate, the

1 authority (notwithstanding any other pro-  
2 vision of law) to—

3 (I) complete, maintain, operate,  
4 lease, or otherwise dispose of any  
5 property acquired pursuant to such  
6 guarantee or related agreements; or

7 (II) permit the borrower, pursu-  
8 ant to an agreement with the Sec-  
9 retary, to continue to pursue the pur-  
10 poses of the project if the Secretary  
11 determines this to be in the public in-  
12 terest.

13 (ii) SUPERIORITY OF RIGHTS.—The  
14 rights of the Secretary, with respect to any  
15 property acquired pursuant to a guarantee  
16 or related agreements, shall be superior to  
17 the rights of any other person with respect  
18 to the property.

19 (iii) TERMS AND CONDITIONS.—A  
20 guarantee agreement shall include such de-  
21 tailed terms and conditions as the Sec-  
22 retary determines appropriate to—

23 (I) protect the interests of the  
24 United States in the case of default;  
25 and

1 (II) have available all the patents  
2 and technology necessary for any per-  
3 son selected, including the Secretary,  
4 to complete and operate the project.

5 (C) PAYMENT OF PRINCIPAL AND INTER-  
6 EST BY SECRETARY.—With respect to any obli-  
7 gation guaranteed under this section, the Sec-  
8 retary may enter into a contract to pay, and  
9 pay, holders of the obligation, for and on behalf  
10 of the borrower, from funds appropriated for  
11 that purpose, the principal and interest pay-  
12 ments which become due and payable on the  
13 unpaid balance of the obligation if the Sec-  
14 retary finds that—

15 (i)(I) the borrower is unable to meet  
16 the payments and is not in default;

17 (II) it is in the public interest to per-  
18 mit the borrower to continue to pursue the  
19 purposes of the project; and

20 (III) the probable net benefit to the  
21 Federal Government in paying the prin-  
22 cipal and interest will be greater than that  
23 which would result in the event of a de-  
24 fault;

1           (ii) the amount of the payment that  
2           the Secretary is authorized to pay shall be  
3           no greater than the amount of principal  
4           and interest that the borrower is obligated  
5           to pay under the agreement being guaran-  
6           teed; and

7           (iii) the borrower agrees to reimburse  
8           the Secretary for the payment (including  
9           interest) on terms and conditions that are  
10          satisfactory to the Secretary.

11       (D) ACTION BY ATTORNEY GENERAL.—

12           (i) NOTIFICATION.—If the borrower  
13           defaults on an obligation, the Secretary  
14           shall notify the Attorney General of the de-  
15           fault.

16           (ii) RECOVERY.—On notification, the  
17           Attorney General shall take such action as  
18           is appropriate to recover the unpaid prin-  
19           cipal and interest due from—

20                   (I) such assets of the defaulting  
21                   borrower as are associated with the  
22                   obligation; or

23                   (II) any other security pledged to  
24                   secure the obligation.

25       (9) FEES.—



1           (A) IN GENERAL.—The Secretary shall  
2 charge and collect fees for guarantees in  
3 amounts the Secretary determines are sufficient  
4 to cover applicable administrative expenses.

5           (B) AVAILABILITY.—Fees collected under  
6 this paragraph shall—

7                 (i) be deposited by the Secretary into  
8 the Treasury; and

9                 (ii) remain available until expended,  
10 subject to such other conditions as are con-  
11 tained in annual appropriations Acts.

12 (10) RECORDS; AUDITS.—

13           (A) IN GENERAL.—A recipient of a guar-  
14 antee shall keep such records and other perti-  
15 nent documents as the Secretary shall prescribe  
16 by regulation, including such records as the  
17 Secretary may require to facilitate an effective  
18 audit.

19           (B) ACCESS.—The Secretary and the  
20 Comptroller General of the United States, or  
21 their duly authorized representatives, shall have  
22 access, for the purpose of audit, to the records  
23 and other pertinent documents.

24 (11) FULL FAITH AND CREDIT.—The full faith  
25 and credit of the United States is pledged to the

- 1 payment of all guarantees issued under this section
- 2 with respect to principal and interest.

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